ARIZONA STATE SENATE

Fifty-Second Legislature, Second Regular Session

FACT SHEET FOR H.B. 2301

bonding; sale; premiums; refunding; refinance

Purpose

Modifies provisions regarding the issuance of bonds and refunding bonds in various political subdivisions.

Background

Government capital facilities (buildings and structures) may either be paid for with current income on a "pay-as-you-go" basis or financed by borrowing money and making payments over time. Typically the financing necessary is approved through the sale of bonds. Most state and local government bonds are collectively referred to as "municipal bonds" or "tax-exempt bonds," because the interest paid on them is exempt from federal income tax. In many cases the interest income on municipal bonds is also exempt from income taxes in the state of issuance and local income taxes, if applicable.

Municipal bonds can be categorized into two types: general obligation (GO) bonds and revenue bonds. GO bonds are secured by the "full faith and credit" of the government, that is its full property taxing power. There is a legal obligation to use its taxing power, if necessary, to repay the debt, and in the event of a default the holders of GO bonds have a right to compel a property tax levy to meet the obligation. GO bonds are generally considered to be very low risk for investors, and they usually sell at the lowest rates of interest.

Revenue bonds are legally secured only by a specifically identified revenue source rather than the full faith and credit of the government. If that revenue source is inadequate to make the debt service payments, the government is not legally obligated to use any other revenues for the bond payments. The government may pledge a certain portion of specific tax revenues or may use revenue generated from the operation of a project financed with the bonds to pay the principal and interest. Thus, revenue bonds are typically used to finance revenue producing projects such as sports venues, convention centers, hydroelectric projects or airports. The revenues subsequently generated from the operation of the project are used to pay off the bonds. Usually, revenue bonds do not require voter approval, although an election may be required by law in particular cases.

The municipal bond market is governed by extensive formal, specialized laws and practices intended to provide a secure, fair and dependable process for the borrowing and repayment of monies by government agencies. There are over 2,000 banks and securities firms that are registered to buy and sell municipal bonds. Independent rating agencies analyze the creditworthiness of the government entity issuing the bonds in order to measure the probability of timely payment of principal and interest to assist investors in evaluating the bond's degree of risk. A high credit rating means a lower risk of default and a lower interest rate. Municipal bonds are usually sold in denominations of $5,000 or multiples of $5,000.

Due to the fact that returns on municipal bonds are exempt from federal taxes, and in certain cases from state and local income taxes in the state of issuance, investors are willing to accept lower interest rates (yields) because the tax savings will make up and perhaps exceed the difference in yield between municipal bonds and other investments of similar risk. This enables governments to borrow money at a significantly lower interest rate compared to the rates if the interest were taxable.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

<u>Provisions</u>

General Obligation Bond Bankruptcy Provisions

1. Requires all bonds, whenever issued, to be secured by a lien on all revenues received pursuant to a tax levy.

2. Stipulates that the lien arises automatically without the need for any action or authorization by a county or board of supervisors and is valid and binding from the time of the issuance of the bond.

3. Specifies that the revenues received pursuant to the levy of the tax are immediately subject to the lien.

4. Stipulates that the lien attaches immediately to the revenues and is enforceable against the county, county's successors, transferees, creditors and all other parties asserting rights in the revenues, irrespective of whether the parties have notice of the lien, without the need for any physical delivery, recordation, filing or further act.

General Obligation Bond Premium Limitations

5. Eliminates the cap on net premiums associated with a bond issue.

6. Allows the amount of net premium associated with a bond issue to be used for any purpose, if there is voter authorization and available capacity under its debt limitations and the amount of the net premium used will reduce in an equal amount both:
   a) the available aggregate indebtedness capacity; and
   b) the principal amount authorized by the voters.

Issuance of Refunding Bonds

7. Stipulates that if the net premium associated with a refunding bond issue is used to fund the escrow account to pay the bonds to be refunded and the principal amount of the refunding bond is less than the principal of the bonds being refunded, the difference between the amounts reduces the available aggregate indebtedness capacity of the political subdivision

provided that the difference in the amounts does not exceed the aggregate available indebtedness capacity of the political subdivision.

8. Stipulates the difference in the principal amount will not cause any increase or decrease in the principal amount to any bond election.

9. Specifies that for bonds issued to refund or refinance bonds that are issued beginning September 1, 2016, in advance of the maturity dates of such bonds, the holder of the refunded bonds must rely on the sufficiency of the funds or securities held in trust for the payment of refunded bonds.

10. Stipulates that a refunded bond must in no way infringe on the rights of the holders of the refunding bonds to rely on a tax levy for the payment of principal of and interest on the refunding bonds if the investments in the redemption funds prove insufficient.

11. Prohibits the total aggregate of taxes levied to pay the principal of and interest on the refunding bonds in the aggregate from exceeding the total aggregate principal and interest to become due on the refunded bonds from the date of issuance of the refunding bonds to the final date of maturity on the bonds being refunded.

12. Requires the following taxes to be levied, assessed and collected as other taxes of political subdivisions and the proceeds kept in a special fund and used only for the purposes for which it was collected:
    a) an amount sufficient to pay the interest on all refunding bonds outstanding;
    b) the installments of the principal becoming due and payable in the ensuing year; and
    c) the annual portion of a sinking fund set up for retirement of the bonds.

Refunding Municipal Improvement District Bonds

<u>Refunding Bonds</u>

13. Permits the issuance of municipal improvement district refunding bonds.

14. Requires the refunding bonds to be issued and sold as provided by the governing body of the city or town.

15. Requires the interest on the refunding bonds to be payable semiannually on January 1 and July 1 and the due date to be January 1 in the year in which it becomes due.

16. Allows refunding bonds to be exchanged for not less than a like principal amount of bonds to be refunded and to be sold at, above or below par at a negotiated or public sale or exchanged in part and sold in part.

17. Stipulates that if a bond is sold, the net proceeds, together with all or a portion of the amounts held in the debt service fund, amounts in any reserve fund and other amounts can be invested provided such investments and any reinvestment will mature with interest so as to provide funds to pay the refunded bonds when due or called for redemption.

18. Requires investments to be deposited in trust with a national banking corporation or association authorized to do trust business in the state and is a member of the Federal Deposit Insurance Corporation.

19. Stipulates that after investments are deposited, the bonds being refunded are to be deemed to have been paid and not have further interest in the assessment for the bonds being refunded.

20. Allows the district treasurer to enter into trust agreements with banking corporations or associations for the handling, safekeeping and administration of the amounts and investments derived from, and contributed to, the refunding.

21. Requires the investments to be obligations issued by the U.S. government or obligations fully guaranteed by the U.S. government as to principal and interest.

Limitation on Refunding Bonds

22. Allows refunding bonds to be issued only if the total amount of principal of and interest on the refunding bonds does not exceed the total amount of remaining principal of and interest on the refunded bonds.

23. Requires the superintendent to file a modified assessment reflecting the reduction in the assessment.

24. Stipulates that if the assessment does not increase the assessment on any parcel or lot, it may be approved by the governing body without providing notice on a hearing to the affected owners.

25. Specifies that if the modification results in an increase in the assessment of any parcel or lot, notice, and if required, a hearing must be provided.

Security

26. Requires refunded bonds to be secured and payable from the special assessments levied to pay the bonds being refunded.

27. Specifies that on the issuance of refunding bonds, the remaining unpaid installments of such special assessments must be recalculated and modified so that the amount to be collected equal the amounts needed to repay the refunding bond.

28. Specifies that collection, payment and enforcement of assessments for the bonds being refunded and the validity and priority of the lien of the assessments for the bonds being refunded remain in full force and effect.

29. Stipulates that assessments survive the payment or defeasance of the bonds being refunded and remain in full force and effect, securing the refunded bonds until they are paid in full.

30. Requires refunding bonds to be payable only out of a special fund to be collected for such special assessments.

31. Specifies that special assessments from which refunding bonds are to be paid are the same first liens on the property assessed for the bonds being refunded.

Collection of Assessments

32. Allows the district treasurer and county treasurer to enter into an agreement for the county treasurer to collect the special assessments for the refunding bonds.

33. Allows the district treasurer and county treasurer to provide by agreement for the payment of the county treasurer's collection expenses directly related to the levy of the special assessment.

34. Allows the levy of the special assessment to include an amount for compensation of the county treasurer directly related to the collection of the special assessment.

Determination of Governing Body

35. Stipulates that the determination of the governing body issuing refunding bonds that the limitations imposed on the issuance of refunding bonds have been met must be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

Miscellaneous

36. Removes the requirement that bonds sold in a public offering must receive one of the four highest investment grade rating by a nationally recognized bond rating agency.

37. Allows municipal, county and street and highway improvement bonds to be sold by negotiated sale.

38. Defines terms.

39. Makes technical and conforming changes.

40. Becomes effective on the general effective date.

House Action

WM	2/15/16	DP	9-0-0-0
3rd Read	2/25/16		60-0-0-0

Prepared by Senate Research
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BR/ls